

Ira Lee Sorkin
May 8, 2003

justice, see U.S.S.G. § 3C1.1, regardless of any stipulation set forth above, should the defendant move to withdraw his guilty plea once it is entered, or should it be determined that the defendant has either (i) engaged in conduct, unknown to the Government at the time of the signing of this Agreement, that constitutes obstruction of justice or (ii) committed another crime after signing this agreement.

It is understood that pursuant to Sentencing Guidelines § 6B1.4(d), neither the Probation Department nor the Court is bound by the above Guidelines stipulation, either as to questions of fact or as to the determination of the proper Guidelines to apply to the facts. In the event that the Probation Department or the Court contemplates any Guidelines adjustments, departures, or calculations different from those stipulated to above, the parties reserve the right to answer any inquiries and to make all appropriate arguments concerning the same.

It is understood that the sentence to be imposed upon the defendant is determined solely by the Court. This Office cannot, and does not, make any promise or representation as to what sentence the defendant will receive. Moreover, it is understood that the defendant will have no right to withdraw his plea of guilty should the sentence imposed by the Court be outside the Stipulated Sentencing Range set forth above.

It is further agreed (i) that the defendant will not file a direct appeal, nor litigate under Title 28, United States Code, Section 2255 and/or Section 2241, any sentence within or below the Stipulated Sentencing Range (18 to 24 months) set forth above and (ii) that the Government will not appeal any sentence within or above the Stipulated Sentencing Range (18 to 24 months). This provision is binding on the parties even if the Court employs a Guidelines analysis different from that stipulated to herein. Furthermore, it is agreed that any appeal as to the defendant's sentence that is not foreclosed by this provision will be limited to that portion of the sentencing calculation that is inconsistent with (or not addressed by) the above stipulation.

The defendant hereby acknowledges that he has accepted this Agreement and decided to plead guilty because he is in fact guilty. By entering this plea of guilty, the defendant waives any and all right to withdraw his plea or to attack his conviction, either on direct appeal or collaterally, on the ground that the Government has failed to produce any discovery material, Jencks Act material, exculpatory material pursuant to Brady v. Maryland, 373 U.S. 83 (1963), other than information establishing the factual innocence of the defendant, and impeachment material pursuant to Giglio v. United States, 405 U.S. 150 (1972), that has not already been produced as of the date of the signing of this Agreement.

It is further agreed that should the convictions following defendant's pleas of guilty pursuant to this Agreement be vacated for any reason, then any prosecution that is not time-barred by the applicable statute of limitations on the date of the signing of this agreement (including any counts that the Government has agreed to dismiss at sentencing pursuant to this Agreement) may be

Ira Lee Sorkin
May 8, 2003

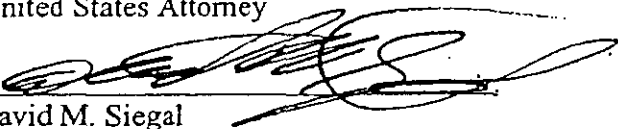
commenced or reinstated against defendant, notwithstanding the expiration of the statute of limitations between the signing of this Agreement and the commencement or reinstatement of such prosecution. It is the intent of this Agreement to waive all defenses based on the statute of limitations with respect to any prosecution that is not time-barred on the date that this Agreement is signed.

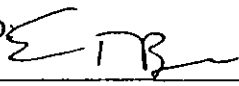
It is further understood that this Agreement does not bind any federal, state, or local prosecuting authority other than this Office.

Apart from any written Proffer Agreement(s) that may have been entered into between this Office and defendant, this Agreement supersedes any prior understandings, promises, or conditions between this Office and defendant. No additional understandings, promises, or conditions have been entered into other than those set forth in this Agreement, and none will be entered into unless in writing and signed by all parties.

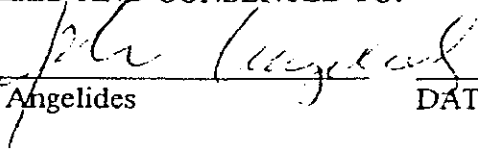
Very truly yours,

JAMES B. COMEY
United States Attorney

By: 
David M. Siegal
Assistant United States Attorney
(212) 637-2281

APPROVED: 
Evan T. Barr
Chief, Major Crimes Unit

AGREED AND CONSENTED TO:

 5/22/03
John Angelides DATE

APPROVED:  5.22.03
Ira Lee Sorkin, Esq. DATE
Attorney for John Angelides

ANG-06-30
CORP

CARTER LEDYARD & MILBURN LLP
Counselors at Law

Ira Lee Sorkin
Partner

Direct Dial: 212-238-8680
E-mail: sorkin@clm.com

2 Wall Street
New York, NY 10005-2072

Tel (212) 732-3200
Fax (212) 732-3232

1401 Eye Street, N.W.
Washington, DC 20005
(202) 898-1515

570 Lexington Avenue
New York, NY 10022
(212) 371-2720

April 26, 2004

BY HAND AND FACSIMILE

Honorable Thomas P. Griesa
United States District Court
Southern District of New York
United States Courthouse
500 Pearl Street
Room 1630
New York, New York 10007

Re: United States v. John Angelides
Docket No. 03 Cr. 635-01 (TPG)

Dear Judge Griesa:

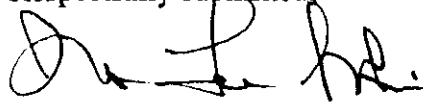
We are co-counsel for John Angelides, along with Mark S. Cohen, of Cohen & Gresser. On May 22, 2003, Mr. Angelides pleaded guilty before Your Honor to one count of conspiracy (18 U.S.C. § 371) to commit wire fraud, submit false claims and make false statements to the government in connection with his participation in the E-rate program. His sentencing is presently scheduled for April 30, 2004 at 4:30 p.m.

Unfortunately, as we previously advised the Court in our letters in November, 2003 and March, 2004, Mr. Angelides has been diagnosed with stage IV non-small cell lung cancer, which has metastasized and also reached his brain. Enclosed herewith is a letter from Mr. Angelides's doctor, Dr. Jorge Gomez of Memorial Sloan-Kettering Cancer Center, setting forth an update on Mr. Angelides's treatment. Dr. Gomez indicates that Mr. Angelides received six cycles of chemotherapy and whole brain radiation and is now under observation. Dr. Gomez advises that Mr. Angelides will go to the clinic every three months with a new CT scan of the chest and will have a serial MRI of the brain. Mr. Angelides's next MRI is scheduled for mid-June, 2004. Dr. Jorge has indicated that on average, patients with this diagnosis live approximately nine months from the date of diagnosis, which was October 2003.

We respectfully submit that during this time, Mr. Angelides should be permitted to devote his entire energies to his treatment. We do not believe that Mr. Angelides is prepared, either mentally or physically, to proceed with sentencing at this time.

In light of the foregoing, we respectfully request that his sentencing be adjourned for a period of six months. I have spoken with Assistant United States Attorney David Siegal, who consents to our request for an adjournment.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Ira Lee Sorkin', written in a cursive style.

Ira Lee Sorkin

ILS:tbm
Enclosure

cc: Mr. John Angelides
Mark S. Cohen, Esq.
AUSA David Siegal



*Thoracic Oncology Service
Department of Medicine*

Mark G. Kris, MD
Service Chief
212.639.7890

Christopher G. Azzoli, MD
212.639.2131

Jorge E. Gomez, MD
212.639.3042

Lee M. Krug, MD
212.639.8120

Vincent A. Miller, MD
212.639.7243

Herbert F. Oestgen, MD
212.639.7797

Naiyer A. Ravi, MD
212.639.3204

Ann Cullin, RN, OCN

Amy Farmer, RN, FNP-C

Bernadette Giaccone, RN, OCN

Anne Haughney, RN, OCN

Dana Inzco, RN, MA, CNS

Gina Lalla, RN, ANP-C

Diane Paolilli, RN, MSN, OCN

Barbara Pizzo, RN, OCN

Kim Plasini, RN, OCN

Chrysa Smalley, RN, ANP-C

Leslie Tyson, MSN, ANP-CS, OCN

April 22, 2004

RE: John Angelides

To Whom It May Concern:

Mr. Angelides is a 66 year-old man with stage IV non-small cell lung cancer with metastatic disease to the brain. He has received six cycles of chemotherapy with paclitaxel and carboplatin and is now under observation. He has also had whole brain radiation. As of 4/12/04, Mr. Angelides will come to our clinic every three months with a new CT scan of the chest. He will also have serial MRI of the brain. His next MRI is scheduled for mid-June.

If there is any additional information that you may require, please contact my office at 212-639-3042.

Sincerely,


Jorge E. Gomez, M.D.
Thoracic Oncology Service



*Thoracic Oncology Service
Departments of Medicine*

Mark G. Kris, MD
Service Chief
212.639.7704

Christopher G. Azoli, MD
212.639.2197

Jorge E. Gomez, MD
212.639.3042

Lee M. Krug, MD
212.639.6401

Vincent A. Miller, MD
212.639.7243

Herbert F. Olszegen, MD
212.639.7901

Naiyer A. Ravi, MD
212.639.3044

Ann Culkun, RN, OCN

Amy Farnow, RN, FNP-C

Bernadette Giaccone, RN, OCN

Anne Haughney, RN, OCN

Dana Inzoo, RN, MA, CNS

Gina Lalla, RN, ANP-C

Diane Paoilli, RN, MSN, OCN

Barbara Pizzo, RN, OCN

Kim Plastini, RN, OCN

Chrysa Smalley, RN, ANP-C

Leslie Tyson, MSN, ANP-CS, OCN

February 19, 2004

Re: John Angelides

To Whom It May Concern:

Mr. John Angelides is under my care for a diagnosis of stage IV non-small cell lung cancer with metastatic disease to the brain. He was first seen in consultation on 10/20/03. He has completed whole brain radiation therapy and is currently receiving chemotherapy. He will finish treatment in 4-6 weeks and then be followed with CT scans of the chest every three months. On average, patients with stage IV non-small cell lung cancer live approximately 9 months.

If there is any additional information that you may require, please contact my office at (212) 639-3042.

Sincerely,


Jorge E. Gomez, MD.
Thoracic Oncology Service

*Memorial Sloan-Kettering Cancer Center
1275 York Avenue, New York, New York 10021
NCI-designated Comprehensive Cancer Center*

PETER STATHOPOULOS, M.D.
INTERNAL MEDICINE
856 CASTLETON AVENUE
STATEN ISLAND, NEW YORK 10310

718 - 720-6300
718 - 720-6318

April 2, 2004

To Whom It May Concern:

Mr. John Angelides was under my care and therapy from January 2001 to September 2003. His condition worsened and was transferred to Sloan Kettering Hospital on October 20, 2003, for continuation of treatment of cancer on his lungs and brain.

Very truly yours,


Peter Stathopoulos, MD

PS/mf



*Thoracic Oncology Service
Department of Medicine*

Mark G. Kris, MD
Service Chief
212.639.7590

Christopher G. Azzoli, MD
212.639.3171

Jorge E. Gomez, MD
212.639.3042

Lee M. Krug, MD
212.639.8450

Vincent A. Miller, MD
212.639.7243

Herbert E. Oertgen, MD
212.639.7595

Naiyer A. Rizvi, MD
212.639.3204

Ann Calkin, RN, OCN

Amy Farmer, RN, FNP-C

Bernadette Giaccone, RN, OCN

Anne Haughney, RN, OCN

Dana Inzeo, RN, MA, CNS

Gina Lalla, RN, ANP-C

Diane Paolilli, RN, MSN, OCN

Barbara Pizzo, RN, OCN

Kim Mastini, RN, OCN

Chrysa Smalley, RN, ANP-C

Leslie Tyson, MSN, ANP-CS, OCN

October 24, 2003

Re: Angelides, John

To Whom It May Concern:

Mr. John Angelides was seen in consultation on 10/20/03 for a diagnosis of metastatic non-small cell lung cancer. He is currently receiving whole brain radiation at our institution. He will receive radiation therapy for two weeks and then he will receive chemotherapy for three to four months.

If there is any additional information that you may require, please contact my office at (212) 639-3042.

Sincerely,


Jorge E. Gomez, MD.
Thoracic Oncology Service

RECEIVED
JUN 02 2004

MT
MSC
EFB
Chron

COHEN & GRESSER LLP
666 FIFTH AVENUE, 26TH FLOOR
NEW YORK, N.Y. 10103
TELEPHONE (212) 957-7600
FAX (212) 957-4514

COHEN & GRESSER LLP

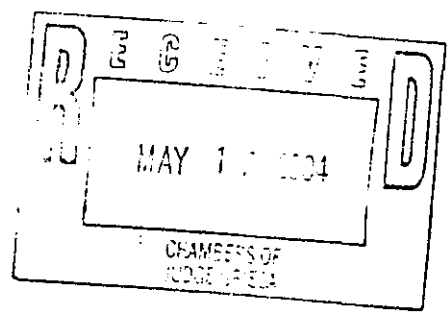
MEMO ENDORSED

Mark S. Cohen
Direct Dial: (212) 957-7601
Email: mcohen@cohengresser.com

May 13, 2004

VIA U.S. MAIL

Hon. Thomas P. Griesa
United States District Court Judge
Southern District of New York
United States Courthouse
500 Pearl Street
New York, NY 10007



Re: United States of America v. John Angelides, et al, Ind. No. 03-635

Dear Judge Griesa:

I represent the defendant John Angelides, along with Ike Sorkin.

Mr. Angelides pleaded guilty before Your Honor on May 22, 2003, and has been awaiting sentencing. However, as we have previously advised the Court, Mr. Angelides is in a precarious medical condition. He is being treated for stage IV metastasized non-small cell lung cancer, and, unfortunately, has a very short life expectancy. For this reason, his sentencing has been deferred to November 9, 2004.

Nonetheless, Mr. Angelides has continued, as required, to report in person to Pre-Trial Services.

My associate spoke to Lisa Chan, of Pre-Trial Services, to whom Mr. Angelides reports, and also spoke to Assistant U.S. Attorney David Siegel. Neither Ms. Chan nor Mr. Siegel had any objection to releasing Mr. Angelides from the reporting requirement.

Approved
Thomas P. Griesa
[Signature]
6/27/04

COHEN & GRESSER LLP

Hon. Thomas P. Griesa
May 13, 2004
Page 2

Accordingly, we respectfully request that Your Honor grant Mr. Angelides permission to cease reporting in person to Pre-Trial Services, and release him from all reporting requirements. In the alternative, we request that Your Honor permit Mr. Angelides to report by telephone.

Respectfully submitted,



Mark S. Cohen

Enclosures

cc: A.U.S.A. David Siegel
United States Attorney's Office
United States Attorney for the Southern
District of New York
One St. Andrew's Plaza
New York, NY 10007

Ms. Lisa Chan
Pre-Trial Services
500 Pearl Street
New York, NY 10007

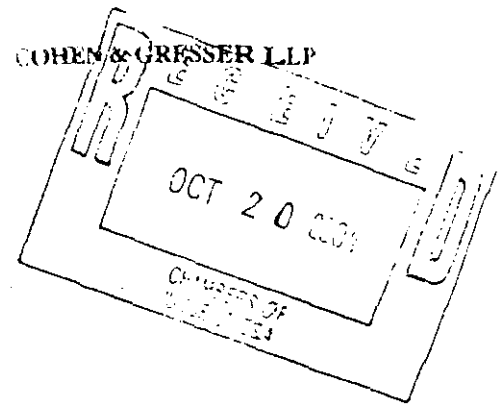
Ira L. Sorkin, Esq.
Carter Ledyard & Milburn LLP
2 Wall Street
13th Floor
New York, NY 10005

COHEN & GRESSER LLP

666 FIFTH AVENUE, 26TH FLOOR
NEW YORK, N.Y. 10103
TELEPHONE (212) 957-7600
FAX (212) 957-4514

Mark S. Cohen
Direct Dial: (212) 957-7601
Email: mcohen@cohengresser.com

OCT 20 2004



October 19, 2004

BY HAND

Hon. Thomas P. Griesa
United States District Judge
Daniel Patrick Moynihan United States Courthouse
500 Pearl Street, Room 1630
New York, New York 10007-1312

MEMO ENDORSED

Re: United States of America v. John Angelides, et al,
Docket No. 03 Cr. 635-01 (TPG)

Dear Judge Griesa:

Along with my co-counsel, Ira Sorkin of Carter Ledyard & Milburn, I represent the defendant John Angelides. Mr. Angelides pleaded guilty before Your Honor on May 22, 2003. His sentencing is currently scheduled for November 9, 2004. I am writing to request that his sentencing be adjourned.

As Your Honor has previously been advised, Mr. Angelides is in a precarious medical condition. He is being treated for stage IV metastasized non-small cell lung and brain cancer. He has a very short life expectancy. For this reason, Mr. Angelides' sentencing was previously deferred for six months, at our request, with the consent of the United States Attorney. Your Honor also excused Mr. Angelides from all reporting requirements, on the consent of Pre Trial Services and the United States Attorney.

I enclose a letter from Mr. Angelides' physician, Dr. Jorge Gomez, of Memorial Sloan-Kettering Cancer Center, to update the Court's information. As of September 20, 2004, Mr. Angelides had received brain radiation and six cycles of chemotherapy. During follow-up examinations, it was found that the lung cancer had started to grow again, and Mr. Angelides began experimental treatments. Mr. Angelides is to be monitored and take new drugs. Mr. Angelides' medical appointment calendar (also enclosed) shows that he is scheduled for follow-up examinations on October 18, October 28, and November 1 - i.e., at frequent intervals.

I respectfully request that, for the next six months, Mr. Angelides be permitted to continue devoting his mental and physical energy entirely to his treatment. I do not

Approved. Adjourned to 5/12/05.
Thomas P. Griesa

Honorable Thomas P. Greisa

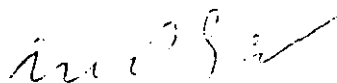
October 19, 2004

Page 2

believe that Mr. Angelides is mentally or physically able to proceed with sentencing at this time.

Accordingly, I request that sentencing be adjourned for a period of six months. I have spoken to Assistant United States Attorney David Siegal, who consents to this request.

Respectfully submitted,



Mark S. Cohen

Enclosure

cc: A.U.S.A. David Siegal
United States Attorney's Office
United States Attorney for the Southern
District of New York
One St. Andrew's Plaza
New York, NY 10007

Ira L. Sorkin, Esq.
Carter Ledyard & Milburn LLP
2 Wall Street
13th Floor
New York, NY 10005



Jorge B. Gomez, MD
Thoracic Oncology Service

September 20, 2004


Re: John Angelides

To Whom It May Concern:

Mr. Angelides is a 66 year old man with stage IV non-small cell lung cancer with metastatic disease to the brain. He has received six cycles of chemotherapy with paclitaxel and carboplatin and is now under observation. He has also had whole brain radiation. As of 4/12/04, Mr. Angelides will come to our clinic every three months with a new CT scan of the chest. The June CT scan showed that the lung cancer has started to grown again. Mr. Angelides made a decision to go with experimental therapy. We will monitor his condition with the new drugs, RAD 001 and Iressa. A new MRI of the brain performed on June 14 showed stable disease.

If there is any additional information that you may require please contact my office at (212)-639-3042.

Sincerely,


Jorge E. Gomez, M.D.
Thoracic Oncology Service

Memorial Sloan-Kettering Cancer Center
1275 York Avenue, New York, New York 10021
Telephone 212.639.3042 • FAX 212.794.4357
NCI-designated Comprehensive Cancer Center



FAX COVERSHEET

Date 10/4/04
 Number of Pages Including Cover 2

TO: Mr. Angelides

FROM: Dr. Gomez's Clinic

PHONE: _____

PHONE: _____

FAX: _____

FAX: _____

This message is intended for the use of the individual or entity to which it is addressed and may contain information that is confidential and exempt from disclosure under the Freedom of Information Act. If the reader of this message is not the intended recipient, or the person responsible for delivering the message to the intended recipient, you are hereby notified that any dissemination or copying of the communication is strictly prohibited. If you receive this communication in error, please telephone us immediately at (212) _____ and return this original message to us at the above address via regular postage.

Thank you,

Memorial Sloan-Kettering Cancer Center
 1275 York Avenue, New York, New York 10021
 NCI-designated Comprehensive Cancer Center

MEMORIAL HOSPITAL FOR CANCER AND ALLIED DISEASES

John G Angelides
758 Todt Hill Road
Staten Island, NY 10304

MRN: 00959381
Home #: 718-979-6163
Work #: 000-000-0000

Monday, Oct 18, 2004

11:00 AM Radiology
MRI
MSK Rockefeller Outpatient Pavilion
160 East 53rd Street, 8th Floor

Patient Instructions
Please arrive 30 minutes prior to your
appointment time. Eating is permitted
prior to your scan, but please eat
lightly.

1:30 PM Alex Demopoulos
Follow Up Visit
MSKCC
1275 York Avenue

Thursday, Oct 28, 2004

5:00 PM Radiology
CT Scan
MSK Main Campus
1275 York Avenue

Patient Instructions
Please arrive 30 minutes prior to your
appointment time.

Monday, Nov 01, 2004

12:30 PM Jorge Gomez, MD
Follow Up Visit
MSK Rockefeller Outpatient Pavilion
160 East 53rd Street, 8th Floor
212-639-3042

Patient Instructions
Please arrive 30 minutes prior to your
appointment time.

Printed: 10/04/2004 7:55 PM

Page: 1

COHEN & GRESSER LLP

666 FIFTH AVENUE, 26TH FLOOR

NEW YORK, N.Y. 10103

TELEPHONE (212) 957-7600

FAX (212) 957-4514

Mark S. Cohen

Direct Dial: (212) 957-7601

Email: mcohen@cohengresser.com

July 20, 2004

VIA FEDERAL EXPRESS

Letter of Appeal
Schools and Libraries Division
Box 125 – Correspondence Unit
80 South Jefferson Road
Whippany, NJ 07981

Re: Connect2 Internet Networks Inc.

Dear Sir or Madam:

This is a letter of appeal made on behalf of Connect2 Internet Networks Inc. ("Connect2"). I and my co-counsel, Ike Sorkin of Carter Ledyard & Milburn LLP, represent Connect2.

The SLD Letters

Connect2 has received numerous letters requesting repayment of disbursed funds. The funding request numbers and dates of the letters are set forth in the appendix attached hereto. (The applicants' names, Application Numbers, and Billed Entity Numbers, where available, are set forth in the appendix as well.)

The bases for the requested repayments vary. In some cases, SLD claims that funds were disbursed "in excess of the actual services delivered." In others, SLD states that "auditors were unable to locate all of the equipment" in 2004 – notwithstanding that the equipment was funded in 1998-1999. (See June 7, 2004 letter, regarding St. Augustine School, referenced in the attached appendix on p. 4.) In other cases, SLD claims, "The applicant was unable to show that a competitive bidding process had occurred or that they had paid their non-discounted share. Additionally, the applicant was unable to demonstrate that the internet access service was delivered within the funding year." (See June 7, 2004 letter, regarding The Children's Storefront, referenced in the attached appendix on p. 1.) In still other cases, the basis is that the vendor "failed to collect the required payment for the non-discounted portion of this FRN." (See April 1, 2004 letter, regarding Greek American Institute, referenced in the attached

July 20, 2004

Page 2

April 1, 2004 letter, regarding Greek American Institute, referenced in the attached appendix on p. 2.) In several instances, "demand" letters were received without any explanation whatever. (See the June 16, 2004 letters regarding AHCR Elementary School, Christ Crusader Academy, Grace Lutheran Day School, Immaculate Conception School, Islamic Elementary School, Mary Help of Christians School, School of the Transfiguration, St. John Lutheran School, St. Matthew Lutheran School, St. Rocco School, and Summit School, referenced in the attached appendix.)

The total amount sought is over \$5,000,000.

Mr. Angelides and Connect2

Connect2's former president, John Angelides, who is 66 years old, has been diagnosed with Stage-IV metastasized non-small cell lung cancer, which has spread to the brain. He is being treated at the Memorial Sloan-Kettering Cancer Center. On average, patients with Mr. Angelides' diagnosis live approximately nine months from the date of diagnosis, which was October 2003. Because of Mr. Angelides' illness, he did not immediately bring the letters to our attention. Thus, any untimeliness in this appeal for Connect2 should be excused for good cause.

Before his illness was discovered, on May 22, 2003, Mr. Angelides pled guilty to 18 U.S.C. § 371 before the Honorable Thomas P. Griesa, in the Southern District of New York. The United States Attorney agreed that the entire "loss amount" arising from his conduct was more than \$200,000 and less than \$400,000, and Mr. Angelides agreed to forfeit \$290,000 – not the millions referenced in your letters. Because of his terminal illness, Mr. Angelides has not been sentenced at this time.

In light of the criminal prosecution of Mr. Angelides, his illness, and attendant business problems, Connect2 has not transacted any business since 2003, when it closed its office. The funds that Connect2 received from SLD – two to four year ago – which SLD now wants repaid, largely went to the purchase and installation of computer equipment in the serviced schools and to pay the Company's employees, vendors and other overhead.

In light of these extreme circumstances, we believe that further proceedings are unwarranted. Connect2 therefore respectfully appeals the SLD claims.

July 20, 2004

Page 3

Furthermore, we respectfully request a meeting with you to discuss resolution of this matter. We look forward to hearing from you.

Yours very truly,

A handwritten signature in dark ink, appearing to read 'Mark S. Cohen', with a long horizontal flourish extending to the right.

Mark S. Cohen

Enclosures

cc: Mr. John Angelides
Ike Sorkin, Esq.

1009-001/2578



Universal Service Administrative Company
Schools & Libraries Division

November 23, 2004

Connect 2 Internet Networks Inc.
Attn: John Angelides
26 Bay St.
Staten Island, NY 10301

RE: Beneficiary Audit

Dear Mr. Angelides:

The service provider for which you serve as the contact person ("you" or "your entity") or a school, school district, or library that selected you as a service provider was recently audited to evaluate its compliance with Federal Communications Commission (FCC) rules relating to the Schools and Libraries Universal Service Support Mechanism (E-Rate). The audit focused on Funding Year 2000 and found that your entity or the school, school district, or library was not in compliance with FCC rules because:

- Equipment/services were not installed and operational.

Enclosed with this letter is a copy of the Audit Report. As a result of your entity's or the school, school district, or library's non-compliance, the Universal Service Administrative Company (USAC) is seeking recovery consistent with the FCC's Orders.¹

This letter notifies you, as the contact person for the service provider that the Schools and Libraries Division (SLD) of USAC will take no action on pending or future Funding Request Numbers (FRNs) associated with your entity for Funding Years 2001 or later until USAC determines that your entity has reasonably complied with the request explained below. USAC may also heighten its scrutiny of any invoices submitted by your entity.

USAC is responsible for ensuring that funding commitments and disbursements are made in compliance with program rules.² In addition, USAC has a fiduciary duty to protect the Universal Service Fund from waste, fraud and abuse.³ You (and perhaps others), as the contact person for your entity have made a number of certifications and/or representations on FCC Forms 498, 472, 473 and 474 that you have submitted to USAC on behalf of your entity. False or incorrect certifications may result in numerous

¹ See *in re Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc., Schools and Libraries Universal Service Support Mechanism*, CC Docket Nos. 96-45, 97-21, 02-6, FCC 04-181 (rel. July 30, 2004).

² See generally 47 U.S.C. § 254; 47 C.F.R. § 54.500 *et seq.*

³ See 47 C.F.R. § 54.702.

consequences, including denial of funding, recovery of funds already disbursed and/or other enforcement actions. The audit finding(s) resulting in the non-compliance indicate that you failed to comply with one or more of the certifications that you made on program forms and/or that your entity has otherwise failed to comply with program requirements.

USAC requests that you provide the information and documentation explained below so that USAC can resume consideration of FRNs associated with your entity. If no response is received within six months of the date of this letter, or if no reasonable explanation for delay is provided within six months of the date of this letter, USAC will deny pending FRNs.

Your receipt of this letter does not mean that your entity is prohibited from responding to FCC Forms 470 or from submitting invoices to USAC. Once USAC has determined that your entity has reasonably complied with its request(s), USAC will resume consideration of any pending FRNs.

So that applicants may make informed decisions about how to proceed, a copy of this letter is being sent to all applicants associated with currently pending FRNs for which USAC would otherwise make additional commitments.

Please note that, depending upon USAC's review of the information that you provide, USAC may also need to request information and documentation for prior funding years.

WHAT TO ADDRESS REGARDING THE AUDIT FINDINGS

Below is an explanation of what to address regarding the audit finding(s) so that a determination can be made regarding the hold on your entity's commitments.

- Your entity's (you or your) non-compliance is the result of receiving disbursements from USAC for services and/or equipment that was not provided to your customer. You submitted a Service Provider Invoice Form (SPI Form or FCC Form 474) to USAC, and USAC disbursed funds to you. However, USAC's audit of your customer determined that the services and/or equipment for which USAC disbursed funds to you were not provided by you to your customer. In order to address this finding, your entity must develop and implement a plan to strengthen internal controls to ensure that when your entity submits a SPI Form, you have in fact provided the services and/or equipment to your customer, OR you are in the process of providing the services and/or equipment to your customer and you receipt of upfront payments and/or progress payments is included in the relevant contract between you and your customer.

You should consult FCC rules and orders available at the FCC website for details regarding these requirements.⁴ You must provide USAC with proof that you have taken these steps. This proof should consist, at a minimum, of a copy of your entity's plan to address this audit finding, and a description of how this plan has been implemented

⁴ See 47 C.F.R. §§ 54.501, 54.502, 54.503, 54.504(h), 54.517, 54.518, 54.519; Universal Service for Schools and Libraries, Service Provider Annual Certification Form, OMB 3060-0856 (October 1998) (FCC Form 473 or SPAC Form); Universal Service for Schools and Libraries, Service Provider Invoice Form, OMB 3060-0856 (October 2001) (FCC Form 474 or SPI Form)

You should also provide any other information you believe would be useful to USAC in determining whether or not have adequately addressed the audit findings that resulted in the non-compliance. You must provide this proof within six months of the date of this letter, or you must provide a reasonable explanation for delay and a date certain by which you will provide the required information. Failure to provide the required information within the designated time period may result in denial of pending requests for funding and rejection of invoices submitted for payment.

The information and documentation requested above should be sent to:

Universal Service Administration Company
2000 L. Street, N.W., Suite 200
Washington, DC 20036
Attn: Cynthia L. Beach

USAC'S REVIEW OF YOUR COMPLIANCE WITH THIS REQUEST

USAC will review your submission to determine whether it reasonably complies with the requirements set forth in this letter and demonstrates that you have adequately addressed the audit finding(s) that resulted the non-compliance. USAC may seek additional information and documentation from you as it makes this determination.

If USAC determines that you have reasonably complied with this request and that you have adequately addressed the audit finding(s) that resulted in the non-compliance, you will be provided with written notification, and USAC will commence reviewing pending FCC Forms 471 containing FRNs associated with your entity. If USAC determines that you have not reasonably complied with this request, USAC will deny pending FRNs associated with your entity. Should this situation occur, you will be able to request review of USAC's decisions consistent with the procedure set out below.

FCC REVIEW OF USAC'S DETERMINATION AS SET FORTH IN THIS LETTER

If you disagree with USAC's determination that it will not make pending or future funding commitments until you have complied with the request in this letter, you may file an appeal with the Federal Communications Commission (FCC). You should refer to CC Docket No. 02-6 on the first page of your appeal to the FCC. Your appeal must be **POSTMARKED** within 60 days of the above date on this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. If you are submitting your appeal via United States Postal Service, send it to: FCC, Office of the Secretary, 445 12th Street SW, Washington, DC 20554. Further information and options for filing an appeal directly with the FCC can be found in the "Appeals Procedure" posted in the Reference Area of the SLD web site or by contacting the Client Service Bureau. We strongly recommend that you use either the e-mail or fax filing options.

Sincerely,



Cynthia L. Beach

Manager of Audit Response:

cc: St. Augustine School w/o enclosure



OFFICE OF INSPECTOR GENERAL

MEMORANDUM

DATE: May 19, 2004

TO: Chairman

FROM: Inspector General

SUBJECT: Report on Audit of the E-rate Program at St. Augustine School

The Office of Inspector General (OIG) has completed an audit at St. Augustine School (St. Augustine), a beneficiary of the Universal Service Fund (USF). A copy of our audit report no. 02-AUD-02-04-017, entitled "Report on Audit of the E-rate Program at St. Augustine School" is attached. The objective of this audit was to assess the beneficiary's compliance with the rules and requirements of the USF program and to identify program areas which may need improvement.

We concluded that St. Augustine was not compliant with the requirements of the program for funding years 1998, 1999 and 2000. The audit resulted in four (4) specific findings and \$21,600 identified as potential fund recoveries. We recommend that the Wireline Competition Bureau direct the Universal Service Administrative Company (USAC) to recover \$21,600 disbursed on behalf of St. Augustine in funding years 1998 and 1999 (no recoveries relate to funding year 2000). In addition, we recommend that the Wireline Competition Bureau take steps to ensure that funding requests are adequately reviewed in accordance with existing program rules and implementing procedures to make certain that funding requests associated with these areas of noncompliance with program rules and regulations are not approved. Further, we recommend that the Wireline Competition Bureau review those program rules and implementing procedures governing the areas of noncompliance cited in this report to ensure that those program rules and implementing procedures are adequate to protect the interests of the fund.

We held an exit conference on March 30, 2004 with the beneficiary's representatives, and requested their comments on the results of the audit. They verbally concurred with the results of the audit, but did not provide a written response.

We provided management with a copy of our draft report on April 29, 2004 and requested they provide comments on their concurrence with the findings of the audit. In a response dated May 11, 2004, the Wireline Competition Bureau (WCB) indicated that